



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 20 2013

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Mr. Joel Moffett
Chairman
Columbia River Inter-Tribal Fish Commission
700 NE Multnomah Street, Suite 1200
Portland, OR 97232

Dear Mr. Moffett:

Thank you for your letter of December 6, 2013, to Jim Jones, Assistant Administrator of the U.S. Environmental Protection Agency's Office of Chemical Safety and Pollution Prevention, regarding tribal consultations related to efforts to reassess authorized uses of polychlorinated biphenyls. As the Director of the Office of Pollution Prevention and Toxics, the Assistant Administrator asked me to respond to your letter, which references a number of challenging issues. I appreciate the concerns you raised regarding both the EPA's consultation efforts for this potential rulemaking and the reassessment of PCB use authorizations currently under way.

The EPA recognizes that many of the issues you highlighted are of concern to tribal governments, but would require further consideration to determine if the agency should pursue regulatory revisions. For example, the reconsideration of the use of the 50 parts per million level for excluded PCB products would require substantial and lengthy analytical efforts to determine whether a rulemaking is necessary. Such analyses would be in addition to the efforts the EPA believes are necessary to revise the use authorizations in the near term. This near term focus stems from the understanding that PCB electrical transformers are the largest remaining reservoir of liquid PCBs in use. Following the January 2012 tribal consultation calls, and with the benefit of a wide array of input from consultations, public meetings and comments, the EPA held another tribal consultation on December 12, 2013. The focus of this recent consultation was to better understand potential impacts to tribes that may own PCB-containing electrical equipment, including PCB-containing small capacitors in fluorescent light ballasts. Perhaps most significantly, tribes that own school buildings may experience direct compliance costs as a result.

Your letter referenced the comments submitted by the Confederated Tribes of the Umatilla Indian Reservation in response to the EPA's April 7, 2010 Advanced Notice of Proposed Rulemaking entitled: "Polychlorinated Biphenyls: Reassessment of Use Authorizations" (75 FR 17645). A number of organizations, including CTUIR, submitted comments on the topic of inadvertently generated PCBs, noting the difficulty of achieving PCB water standards because of PCB contamination from various sources, including PCBs present in materials used to manufacture recycled paper stock, due to inks, dyes, pigments and possibly carbonless copy paper. The EPA has considered all the information provided in the public comments, as part of our review of the PCB regulations. The EPA recognizes that PCB discharges to water have regulatory and enforcement implications for other agency efforts and will continue to consider the appropriate means to address these concerns. Your input, along with the

information you suggest providing in your letter, will continue to be important in helping the agency move forward.

Your letter also noted the EPA's April 5, 2013 notice of interpretation regarding the recycling of plastics from shredder residue (78 FR 20640). While the EPA did not specifically consult with tribes for this notice, an opportunity for public comment on the interpretation was provided in December 2012 (77 FR 74006). This interpretation is not related to the EPA's April 7, 2010 ANPRM and its reassessment of the PCB use regulations.

Again, thank you for your letter and for sharing your concerns. Additionally, thank you for participating in the December 12, 2013 tribal consultation meeting. In addition to the oral comments heard, the EPA is accepting written comments until February 12, 2014. Both oral and written comments on the topics discussed at the consultation can assist the EPA as it considers potential regulatory revisions.

I hope the information provided is helpful and I look forward to receiving your valuable input for consideration in this rulemaking process and for any future actions. If you have any further questions, please feel free to contact Lynn Vendinello of my staff at 202-566-0514 or vendinello.lynn@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy C. Hamnett", with a long horizontal flourish extending to the right.

Wendy Cleland-Hamnett
Director
Office of Pollution Prevention and Toxics